COMMITTEE ON OVERSIGHT AND REFORM

171 Cannon House Office Building (202) 225-2635

Congress of the United States House of Representatives

Washington, **BC** 20515-0305

February 15, 2023

Christopher Wray Director Federal Bureau of Investigation 935 Pennsylvania Avenue, NW Washington, D.C. 20535

Dear Director Wray,

In December 2022, Department of Justice and the Office of the Director of National Intelligence declassified a 2021 report¹ detailing continued abuses of Section 702 of the Foreign Intelligence Surveillance Act (FISA). Specifically, the report mentions one instance in which "FBI queried the names of a local political party" and one instance in which "an [intelligence analyst] conducted approximately [redacted] queries...using only the name of a U.S. congressman." These instances should frighten every American and Congress deserves an explanation for them.

FISA Section 702 was designed to grant federal intelligence agencies the authorities to monitor non-U.S. persons located outside the United States to acquire foreign intelligence information. However, over the years Section 702 has led to the abundant collection of information related to Americans and information that is not foreign intelligence. While concerning, matters are made worse by continuous reports that federal agents are querying the 702 database specifically looking for information related to Americans. These "backdoor searches" are a violation of the Fourth Amendment and cannot continue.

During the last reauthorization of Section 702, Congress considered an amendment to require a warrant for access to 702 data relating to U.S. persons. However, federal intelligence agencies used scare tactics to convince legislators that unchecked use of this information is the only way to keep our nation safe from harm. The Fourth Amendment to the U.S. Constitution is clear—Americans have the right to be free from warrantless surveillance by government bureaucrats.

As Congress begins conversations on whether FISA 702 authorities should be reauthorized beyond December 31, 2023, please answer the following questions by March 3, 2023:

1. Was the "U.S. congressman" mentioned in footnote 92 made aware of the search of their name in the 702 database? If not, please explain the reasoning.

¹ Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Submitted by the Attorney General and the Director of National Intelligence (Dec. 2021),

https://www.intelligence.gov/assets/documents/702%20 Documents/declassified/24th-Joint-Assessment-of-FISA-702-Compliance.pdf.

- 2. What steps were taken to discipline the intelligence analyst responsible for the query conducted in footnote 92?
- 3. Similarly, what steps were taken to discipline the FBI agent mentioned on page 58 who "queried the names of a local political party"?
- 4. For the below three groups, over the last five years, how many times were each queried? How many times did those queries return hits? How many times were those hits opened for review?
 - a. Members of Congress or congressional staff;
 - b. Political party officials;
 - c. Campaign personnel and candidates.
- 5. What steps have been taken to remind analysts and other personnel with access to the database that the two searches mentioned above are not permitted under law? If none, please explain why. Please provide a copy of the latest comprehensive guidance disseminated to agents.
- 6. What new steps have been taken to minimize non-foreign intelligence information and information that relates to Americans in the database to remove the temptation for agents to inappropriately query for such information?

If the responses to any of the questions above require a classified setting, please contact my office so that a briefing may be promptly arranged.

Sincerely,

Andy Biggs

Member of Congress